

1 BILL NO. S-82-09- 29

2 SPECIAL ORDINANCE NO. S- 182-82

3 AN ORDINANCE approving Street Lighting
4 Resolution No. 160-82, Maintenance Contract
5 with T & F Construction Corporation of
Indiana, in connection with the Board of
Public Works.

6

7 BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF
8 FORT WAYNE, INDIANA:

9 SECTION 1. That a certain Contract dated July 28,
10 1982, between the City of Fort Wayne, Indiana, by and through
11 its Mayor and the Board of Public Works and T & F Construction
12 Corporation of Indiana, for:

13 the maintenance of the street lighting system
14 and new construction;

15 under Board of Public Works Street Lighting Resolution No.
16 160-82, involving a maximum cost of Six Hundred Seventy-Nine
17 Thousand and No/100 Dollars (\$679,000.00), all as more particu-
18 larly set forth in said Resolution and Contract which is on
19 file in the Office of the Board of Public Works and is by refer-
20 ence incorporated herein, made a part hereof and is hereby in
21 all things ratified, confirmed and approved. Two copies of
22 said Contract are on file with the Office of the City Clerk and
23 made available for public inspection, according to law.

24 SECTION 2. That this Ordinance shall be in full force
25 and effect from and after its passage and any and all necessary
26 approval by the Mayor.

27
28 Councilmember

29 APPROVED AS TO FORM
30 AND LEGALITY

31
32 Bruce O. Boxberger, City Attorney

Read the first time in full and on motion by Burns,
seconded by Star, and duly adopted, read the second time
by title and referred to the Committee City Plan (and the City
Plan Commission for recommendation) and Public Hearing to be held after
due legal notice, at the Council Chambers, City-County Building, Fort Wayne,
Indiana, on _____, the _____ day of _____, o'clock _____ M., E.S.T.

DATE: 9-14-82

Charles W. Westerman
CHARLES W. WESTERMAN - CITY CLERK

Read the third time in full and on motion by Burns,
seconded by Gospod, and duly adopted, placed on its
passage. PASSED (TENT) by the following vote:

| | <u>AYES</u> | <u>NAYS</u> | <u>ABSTAINED</u> | <u>ABSENT</u> | <u>TO-WIT:</u> |
|--------------------|-------------|-------------|------------------|---------------|----------------|
| <u>TOTAL VOTES</u> | <u>9</u> | <u> </u> | <u> </u> | <u> </u> | <u> </u> |
| <u>BRADBURY</u> | <u>✓</u> | <u> </u> | <u> </u> | <u> </u> | <u> </u> |
| <u>BURNS</u> | <u>✓</u> | <u> </u> | <u> </u> | <u> </u> | <u> </u> |
| <u>EISBART</u> | <u>✓</u> | <u> </u> | <u> </u> | <u> </u> | <u> </u> |
| <u>GiaQUINTA</u> | <u>✓</u> | <u> </u> | <u> </u> | <u> </u> | <u> </u> |
| <u>SCHMIDT</u> | <u>✓</u> | <u> </u> | <u> </u> | <u> </u> | <u> </u> |
| <u>SCHOMBURG</u> | <u>✓</u> | <u> </u> | <u> </u> | <u> </u> | <u> </u> |
| <u>SCRUGGS</u> | <u>✓</u> | <u> </u> | <u> </u> | <u> </u> | <u> </u> |
| <u>STIER</u> | <u>✓</u> | <u> </u> | <u> </u> | <u> </u> | <u> </u> |
| <u>TALARICO</u> | <u>✓</u> | <u> </u> | <u> </u> | <u> </u> | <u> </u> |

DATE: 9-28-82

Charles W. Westerman
CHARLES W. WESTERMAN - CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne,
Indiana, as (ZONING MAP) (GENERAL) (ANNEXATION) (SPECIAL)
(APPROPRIATION) ORDINANCE (RESOLUTION) NO. J-182-82
on the 28th day of September, 1982

ATTEST:

(SEAL)

Charles W. Westerman
CHARLES W. WESTERMAN - CITY CLERK

Samuel J. Talarico
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on
the 29th day of September, 1982, at the hour of
11:30 o'clock A. M., E.S.T.

Charles W. Westerman
CHARLES W. WESTERMAN - CITY CLERK

Approved and signed by me this 4th day of October,
1982, at the hour of 10. o'clock A. M., E.S.T.

Win Moses, Jr.
WIN MOSES, JR. - MAYOR

[Signature]
S-82-09-29
BILL NO. _____

REPORT OF THE COMMITTEE ON CITY UTILITIES

WE, YOUR COMMITTEE ON City Utilities TO WHOM WAS REFERRED AN ORDINANCE approving Street Lighting Resolution No. 160-82, Maintenance Contract with T & F Construction Corporation of Indiana, in connection with the Board of Public Works

HAVE HAD SAID ORDINANCE UNDER CONSIDERATION AND BEG LEAVE TO REPORT BACK TO THE COMMON COUNCIL THAT SAID ORDINANCE DO PASS.

PAUL M. BURNS - CHAIRMAN

Paul M. Burns

MARK E. GIAQUINTA - VICE CHAIRMAN

Mark E. Giacinta

JAMES S. STIER

James S. Stier

JANET G. BRADBURY

Janet G. Bradbury

ROY J. SCHOMBURG

R. J. Schomburg

9-28-82

DATE

CONCURRED IN
CHARLES W. MCNAUL, JR.

CONTRACT
Res. No. 160-82

STATE OF INDIANA)
COUNTY OF ALLEN) SS

THIS AGREEMENT made and entered into this, the 28
day of July, 1982, by and between:

T & F Construction

The party of the first part, termed in this agreement and the
Contract Documents as the "Purchaser," and

City of Fort Wayne, Indiana

The part of the second part, termed in this agreement and the
Contract Documents as the "Contractor":

WITNESSETH:

THAT, WHEREAS, the Board of Public Works has heretofore caused to be prepared certain contract documents for furnishing labor and equipment and performing work therein fully described, and the Contractor did, on the 21st day of July 1982 file with the Board of Public Works, a copy of said contract documents, together with his offer and terms therein fully stated and set forth, and,

WHEREAS, the said contract documents accurately and fully describe the terms and conditions upon which the Contractor is willing to furnish the labor and equipment and perform the work called for by the said contract documents and in the manner and time of furnishing and performing same.

IT IS THEREFORE, AGREED:

FIRST - That a copy of said contract documents filed as aforesaid be attached hereto and that the same do in all particulars become the agreement and contract between the parties hereto in all matters and things set forth therein and described, and further, that both parties hereby accept and agree to the terms and conditions of said contract documents so filed, for the following:

Maintenance contract for street lighting system and unit price items for
street light construction.

SECOND - The Contract Documents hereto annexed are made a part of this agreement and contract as fully and as absolutely as if herein set out verbatim.

This contract consists of the following component parts all of which are as fully a part of this contract as if herein set out verbatim, or if not attached, as if hereto attached:

1. Advertisement for bids
2. Instructions to bidders
3. Specifications and special provisions
4. Detailed specifications and addendum
5. Construction drawings
6. Application for cut permits into Fort Wayne street, county roads and/or State highways
7. Street barricade maintenance information
8. Contractor's bid
9. Material list
10. Bidder's Bond
11. Non-Collusion Affidavit
12. Certificate in lieu of financial statement
13. Certificate in lieu of Equal Employment Statement and Affirmative Action Program
14. Equal Opportunity Clause
15. Federal Labor Standards Provisions
16. Copeland "Anti Kick Back" Act (18 U.S.C. Sec. 874)
17. Davis-Bacon Act
18. Federal Wage Scale
19. State Prevailing Wage Scale
20. This Contract
21. Performance Bond

In the event that any provisions in any of the above component parts of this contract conflicts with any provision in any other of the component parts, the figured dimensions and sizes specified are to take precedence over scale measurements, or should any part of the work, materials or apparatus be dimensioned or sized differently on different drawings or different parts of the same drawings, the larger or heavier sizes shall take precedence unless otherwise directed or corrected by the engineer.

THIRD - The unit prices agreed to in this contract will remain in effect until the work covered under this contract is completed.

FOURTH - This contract is executed in duplicate.

FIFTH - It is further stipulated that not less than the general prevailing rate of wages as ascertained by the City of Fort Wayne or the Indiana Department of Labor shall be paid to all workmen performing work on this contract.

SIXTH - It is further stipulated that Contractor shall pay all lawful claims or indebtedness which may accrue, by operation of law and otherwise, to any persons, firm or corporation on account of any labor or service performed or material furnished or service rendered, in the carrying forward, performing, and completing of said contract including Subcontractors, laborers, materialmen, and those performing service on account of or directly in connection with the completion of said contract.

SEVENTH - It is further stipulated that any judgment rendered against the City of Fort Wayne or any official thereof, in any suits for damages for injury to real or personal property, or for any injury, sustained by any person growing out of any act of doing of Contractor, or its agents, employees or workmen and that any judgment of any court or award of any Board of Arbitrators or of the State Industrial Board of the State of Indiana rendered against the City of Fort Wayne in any suit or claim arising under said Workmen's Compensation Acts, of the State of Indiana, now in force, relating to compensation for accidental injuries or death suffered by his employees or the employees of any Subcontractor or Subcontractors in the course of their employment, when notice of the pendency of such suit, hearing or arbitration shall have been given said Contractor, shall be conclusive against Contractor as to amount, liability and all other things pertaining thereto; it being the intent of the parties hereto that Contractor indemnify and hold harmless City in the premises.

EIGHTH - The Contractor further agrees to be bounded by Section 15-13 (as amended), of the Code of the City of Fort Wayne, Indiana of 1974, passed by the Common Council of the City of Fort Wayne, Indiana as General Ordinance No. G-34-78 (as amended) on December 12th, 1978, a copy of which Section is attached, and incorporated herein and made a part hereof. (NE/1 -NE/3).

NINTH - The Contractor shall furnish a Performance Bond in a form acceptable to the City of Fort Wayne for the full value of the work.

IN FAITH WHEREOF, Witness the hands and seals of both
parties on the day and year in this agreement first above written.

APPROVED:

Wm. P. Anderson
MAYOR

Sandra E. Kennedy
ATTEST: Clerk

BOARD OF PUBLIC WORKS

H. L. Brady
Robert Anderson
Betty R. Collier

CONTRACTOR: T & F Construction Corp. of Indiana

BY: J. L. Taber
J. L. Taber

President

BY: V. L. Miller
Secretary - V. L. Miller
Treasurer

Approved in Form & Legality
By:

R. J. Schaffer
ASSOCIATE CITY ATTORNEY

PERFORMANCE AND GUARANTEE BOND

KNOW ALL MEN BY THESE PRESENTS, that we T & F Construction Corp. of Indiana
as Principal, and the Fidelity & Deposit Company of Maryland

, a corporation organized under the laws of the State of Maryland, and duly authorized to transact business in the State of Indiana, as Surety, are held firmly bound unto the City of Fort Wayne, Indiana, an Indiana Municipal Corporation in the sum of

Two Hundred Fifty Thousand and 00/100 Dollars

(\$ 250,000.00), for the payment whereof well and truly to be made, the Principal and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents. The condition of the above obligation is such that

WHEREAS, the Principal did on the 28th day of July, 1982, enter into a contract with the City of Fort Wayne to construct

**Street Lighting Maintenance and Unit Price
Contract, Resolution No. 160-82.**

at a cost of \$ 250,000.00, according to certain plans and specifications prepared by or approved by the City.

WHEREAS, the grant of authority by City to so construct such improvement provides:

1. That said improvement shall be completed according to said plans and specifications, and contractor shall warrant and guarantee all work, material, and conditions of the improvement for a period of one (1) year from the date of final acceptance in writing by the Owner;
 2. There shall be filed with the City, within thirty (30) days after completion, a Completion Affidavit;
 3. Said Principal is required to agree to make such adjustments, modifications, and repairs as required by the City within thirty (30) days after notice.

WHEREAS, said Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of the contract or to the work to be performed thereunder, or the specifications accompanying the same, shall in any way affect its obligation on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the contract, or to the work or to the specifications.

NOW THEREFORE, if the principal shall faithfully perform all of the terms and conditions required of it by the contract and shall for one (1) year after acceptance of said improvement by City warrant and guarantee said improvement and shall indemnify the City for all loss that City may sustain by reason of the Principal's failure to comply with any of the terms of the authorization, then this obligation shall be void, otherwise it shall remain in full force and effect.

T & F Construction Corp. of Indiana
(Contractor)

BY: J. L. Taber J. L. Taber

ITS: President

ATTEST:

V.L. Miller

V. L. Miller
(Title) CORPORATE SECRETARY

Fidelity and Deposit Co. of Maryland
Surety

*BY: Dorothy Jean Ellis
Dorothy Jean Ellis
Authorized Agent
(Attorney-in-Fact)

*If signed by an agent, power of attorney must be attached

Power of Attorney
FIDELITY AND DEPOSIT COMPANY OF MARYLAND
HOME OFFICE: BALTIMORE, MD.

KNOW ALL MEN BY THESE PRESENTS: That the FIDELITY AND DEPOSIT COMPANY OF MARYLAND, a corporation of the State of Maryland, by C. M. FECOT, JR., Vice-President, and C. W. ROBBINS, Assistant Secretary, in pursuance of authority granted by Article VI, Section 2, of the By-Laws of said Company, which reads as follows:

SEC. 2. The President, or any Executive Vice-President, or any of the Senior Vice-Presidents or Vice-Presidents specially authorized so to do by the Board of Directors or by the Executive Committee, shall have power, by and with the concurrence of the Secretary or any one of the Assistant Secretaries, to appoint Resident Vice-Presidents, Assistant Vice-Presidents and Attorneys-in-Fact as the business of the Company may require, or to authorize any person or persons to execute on behalf of the Company any bonds, undertakings, recognizances, stipulations, policies, contracts, agreements, deeds, and releases and assignments of judgments, decrees, mortgages and instruments in the nature of mortgages, and also all other instruments and documents which the business of the Company may require, and to affix the seal of the Company thereto.

does hereby nominate, constitute and appoint Vernon Matherly, Lynwell L. Case, Jerry J. Dils, Robert W. Robbins, Russell L. Turner, Gregory K. Dils, Earl L. Chamness, Dorothy Jean Ellis, Janet L. Turner, David N. Matherly, all of Richmond, Indiana, EACH, its true and lawful agent and Attorney-in-Fact, to make, execute, seal and deliver, for, and on its behalf as surety, and as its act and deed: any and all bonds and undertakings, each in a penalty not to exceed the sum of SEVEN HUNDRED FIFTY THOUSAND DOLLARS (\$750,000).....

And the execution of such bonds or undertakings in pursuance of these presents, shall be as binding upon said Company, as fully and amply, to all intents and purposes, as if they had been duly executed and acknowledged by the regularly elected officers of the Company at its office in Baltimore, Md., in their own proper persons. This power of attorney revokes those issued on behalf of Vernon Matherly, et al., dated, September 27, 1979 and on behalf of Jerry J. Dils, et al., dated, November 26, 1979.

The said Assistant Secretary does hereby certify that the foregoing is a true copy of Article VI, Section 2, of the By-Laws of said Company, and is now in force.

IN WITNESS WHEREOF, the said Vice-President and Assistant Secretary have hereunto subscribed their names and affixed the Corporate Seal of the said FIDELITY AND DEPOSIT COMPANY OF MARYLAND, this 10th day of February, A.D. 19 81.....

FIDELITY AND DEPOSIT COMPANY OF MARYLAND

ATTEST:



C. W. Robbins
Assistant Secretary

C. W. Robbins
Vice-President

STATE OF MARYLAND } ss:
CITY OF BALTIMORE }

On this 10th day of February, A.D. 19 81, before the subscriber, a Notary Public of the State of Maryland, in and for the City of Baltimore, duly commissioned and qualified, came the above-named Vice-President and Assistant Secretary of the FIDELITY AND DEPOSIT COMPANY OF MARYLAND, to me personally known to be the individuals and officers described in and who executed the preceding instrument, and they each acknowledged the execution of the same, and being by me duly sworn, severally and each for himself deposes and saith, that they are the said officers of the Company aforesaid, and that the seal affixed to the preceding instrument is the Corporate Seal of said Company, and that the said Corporate Seal and their signatures as such officers were duly affixed and subscribed to the said instrument by the authority and direction of the said Corporation.

In TESTIMONY WHEREOF, I have hereunto set my hand and affixed my Official Seal, at the City of Baltimore, the day and year first above written.



Carol J. Feller
Notary Public Commission Expires July 1, 1982

CERTIFICATE

I, the undersigned, Assistant Secretary of the FIDELITY AND DEPOSIT COMPANY OF MARYLAND, do hereby certify that the original Power of Attorney of which the foregoing is a full, true and correct copy, is in full force and effect on the date of this certificate; and I do further certify that the Vice-President who executed the said Power of Attorney was one of the additional Vice-Presidents specifically authorized by the Board of Directors to appoint any Attorney-in-Fact as provided in Article VI, Section 2 of the By-Laws of the FIDELITY AND DEPOSIT COMPANY OF MARYLAND.

This Certificate may be signed by facsimile under and by authority of the following resolution of the Board of Directors of the FIDELITY AND DEPOSIT COMPANY OF MARYLAND at a meeting duly called and held on the 16th day of July, 1969.

RESOLVED: "That the facsimile or mechanically reproduced signature of any Assistant Secretary of the Company, whether made heretofore or hereafter, wherever appearing upon a certified copy of any power of attorney issued by the Company, shall be valid and binding upon the Company with the same force and effect as though manually affixed."

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed the corporate seal of the said Company, this

28th day of July, 19 82

C. W. Robbins
Assistant Secretary

TITLE OF ORDINANCE Street Lighting Resolution 160-82

DEPARTMENT REQUESTING ORDINANCE Board of Public Works

1-82-09-29

SYNOPSIS OF ORDINANCE Contract between the city of Fort Wayne, Indiana and

T & F Construction Corporation of Indiana for the maintenance of the street
lighting system and new construction.

EFFECT OF PASSAGE continue the practice of contracting for maintenance and new
construction.

EFFECT OF NON-PASSAGE no one available to maintain street lighting system.

MONEY INVOLVED (DIRECT COSTS, EXPENDITURE, SAVINGS) --

ASSIGNED TO COMMITTEE